

Message Text

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PAGE 01 LISBON 05500 140714Z

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ACTION AF-07

INFO OCT-01 EUR-12 ISO-00 AID-05 CIAE-00 COME-00 EB-07

FRB-01 INR-05 NSAE-00 RSC-01 TRSE-00 XMB-02 OPIC-03

SP-02 CIEP-01 LAB-04 SIL-01 OMB-01 H-01 L-02 DODE-00

PA-01 USIA-06 PRS-01 /064 W
----- 063242

R 131652Z DEC 74

FM AMEMBASSY LISBON

TO SECSTATE WASHDC 1250

INFO AMCONSUL OPORTO

AMCONSUL PONTA DELGADA

LIMITED OFFICIAL USE LISBON 5500

EO 11652: N/A

TAGS: EFIN, PO

SUBJ: NEW BANK LAWS

REF: (A) LISBON 3710; (B) LISBON 3949; (C) LISBON 4604

SUMMARY: NEW LAWS WILL REINFORCE GOP'S CAPABILITY OF DETERMINING USES TO WHICH PRIVATE BANK CREDIT MAY BE PUT. PRIVATE BANKERS ON THE ONE HAND WELCOME THE LAWS BECAUSE THE LAWS SHIFT TO A LARGE EXTENT ANY BLAME FOR WRONG DECISIONS FROM THEM TO THE GOVERNMENT, BUT THEY PERCEIVE THAT LAWS MAY MAKE RETURN TO A FREER SYSTEM MORE DIFFICULT WHEN PRESENT CIRCUMSTANCES NO LONGER PERTAIN. END SUMMARY.

1. GOP INTENDS TO ISSUE SOON A SELECTIVE CREDIT LAW ENABLING IT TO DIRECT PRIVATE LENDING INTO AREAS WHICH GOVERNMENT THINKS MOST USEFUL IN PROMOTING NATIONAL ECONOMIC DEVELOPMENT. IN MEANTIME IT HAS ISSUED A LAW (DECREE LAW NO. 671/74 OF NOVEMBER 29, 1974) SETTING UP MACHINERY THROUGH WHICH IT CAN QUICKLY ENFORCE THESE NORMS ONCE THEY ARE ESTABLISHED. LAW'S PREAMBLE ASSERTS THAT CURRENT EXIGENCIES

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PAGE 02 LISBON 05500 140714Z

OF DOMESTIC AND INTERNATIONAL ECONOMIES MAKE SUCH A POLICY

ESSENTIAL.

2. LAW 671/74 ESTABLISHES WITHIN THE BANK OF PORTUGAL (BP) A CADRE OF OFFICIALS WITH HIGH RANK--EQUIVALENT TO A BP DIRECTOR OR DEPUTY DIRECTOR--WHO WILL BE ASSIGNED TO MAJOR PRIVATE CREDIT INSTITUTIONS (PRIMARILY BANKS, INASMUCH AS STATE-CONTROLLED CREDIT INSTITUTIONS AND SMALL PRIVATE ENTITIES ARE SPECIFICALLY EXEMPTED BY THE LAW). THESE BP DELEGATES WILL HAVE BROAD AUTHORITY TO ATTEND BANK MEETINGS AT ANY LEVEL DEALING WITH CREDIT ACTIVITIES, TO OBTAIN RELEVANT INFORMATION FROM BANK OFFICIALS, AND TO EXAMINE CREDIT DOCUMENTS.

3. THE DELEGATES ARE REQUIRED TO REPORT IMMEDIATELY TO BP ANY DEVIATIONS FROM ESTABLISHED NORMS. BP OR THE MINISTRY OF FINANCE WILL THEN DEAL WITH THE SITUATION, DEPENDING ON ITS NATURE. IN ADDITION EACH DELEGATE WILL SUBMIT MONTHLY REPORTS OF HIS OBSERVATIONS TO BP AND MEET MONTHLY WITH FELLOW DELEGATES TO DISCUSS MUTUAL PROBLEMS AND INTERESTS AND RECEIVE BP INSTRUCTIONS. REPRESENTATIVES FROM STATE-CONTROLLED CREDIT INSTITUTIONS WILL JOIN IN THESE MONTHLY MEETINGS AS A MEANS TO COORDINATE NATIONAL CREDIT ACTIVITIES.

4. REMAINDER OF THE LAW DEALS WITH CRITERIA FOR SELECTION OF DELEGATES, THEIR RIGHTS, RANKS, PRIVILEGES, AND OBLIGATIONS (E.G., SECRECY AND NON-INTERFERENCE IN BANKING ACTIVITIES NOT RELATED TO THEIR FUNCTION).

5. COMMENT: A. DECREE LAW 671/74 AND THE YET UNISSUED LAW ESTABLISHING CREDIT NORMS HAVE THE EARMARK OF MEASURES ADOPTED MORE FOR THEIR DEMONSTRATION EFFECT THAN TO FILL A PRACTICAL NEED. BANKERS SAY THAT BP, THROUGH ITS REDISCOUNTING MACHINERY, ALREADY HAS THE MEANS TO ENFORCE THE GOVERNMENT'S CREDIT OBJECTIVES. THE UNINITIATED, HOWEVER, CAN READ THE NEW LAWS AS AN INNOVATIVE EFFORT BY THE PROVISIONAL GOVERNMENT TO ASSURE THE MOST EFFECTIVE USE OF LIMITED FINANCIAL RESOURCES. BANKERS DO NOT EXPECT THAT THE NORMS LAW WILL PLOW NEW GROUND BUT ONLY REAFFIRM EXISTING CREDIT OBJECTIVES --E.G., ASSISTANCE TO SMALL AND MEDIUM FIRMS--THAT BP IS ALREADY IMPLEMENTING.

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PAGE 03 LISBON 05500 140714Z

B. DESPITE FACT THAT THE LAWS, IN FORM AT LEAST, ARE A NEW ENCROACHMENT ON PRIVATE SECTOR, PRIVATE BANKERS SOMEWHAT SURPRISINGLY WELCOME THEM ON THE GROUNDS THAT IT MAKES BANKS TO A LARGE EXTENT IMMUNE FROM CRITICISM ABOUT THEIR CREDIT DECISIONS. LAWS IN EFFECT SHIFT MUCH OF BURDEN OF DECISION-MAKING TO BP AND MINISTRY OF FINANCE. WHILE BANKERS RATHER PLEASED ABOUT THIS UNDER EXISTING CIRCUMSTANCES, THEY DO PERCEIVE THAT LAWS MAY MAKE IT DIFFICULT

TO RETURN TO LESS ENCUMBERED SYSTEM WHEN THESE CIRCUMSTANCES
CHANGE.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NATIONALIZATION, LAW, BANKS, CREDIT CONTROLS
Control Number: n/a
Copy: SINGLE
Draft Date: 13 DEC 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CunninFX
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974LISBON05500
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740363-0970
From: LISBON
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741237/aaaabfqh.tel
Line Count: 118
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION AF
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 74 LISBON 3710, 74 LISBON 3949, 74 LISBON 4604
Review Action: RELEASED, APPROVED
Review Authority: CunninFX
Review Comment: n/a
Review Content Flags:
Review Date: 29 MAY 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <29 MAY 2002 by rowelle0>; APPROVED <27 MAR 2003 by CunninFX>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: NEW BANK LAWS
TAGS: EFIN, PO
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005